

79-25

Supreme Court, U. S.

FILED

JUL 5 1979

MICHAEL RODAK, JR., CLERK

**In the Supreme Court of the
United States**

No.

Term

COMMONWEALTH OF PENNSYLVANIA,

Respondent

vs.

DOLORES SNYDER,

Petitioner

**PETITION FOR WRIT OF CERTIORARI
DIRECTED TO THE SUPREME COURT
OF PENNSYLVANIA**

ALLEN N. BRUNWASSER,
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Petition

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**PETITION FOR WRIT OF CERTIORARI DIRECTED
TO THE SUPREME COURT OF PENNSYLVANIA**

*To the Honorable, the Chief Justice and the Associate
Justices of the Supreme Court of the United States:*

Dolores Snyder respectfully presents this Petition for
allowance of Certiorari to the Supreme Court of the United
States:

Opinions Below and Jurisdiction

REFERENCE TO OFFICIAL AND UNOFFICIAL RE-
PORTS OF THE OPINIONS DELIVERED IN THE
COURTS BELOW

That the March 16, 1979 Order of Judge Samuel Strauss rejecting the plea bargain involved in this case is unreported. The Judge announced his opinion from the bench and, so far as your petitioner is aware, never signed any order because she has never been served with an order.

The May 15, 1979 Order of the Supreme Court of Pennsylvania is unreported. However, a copy of the order is appended to this petition (1a).

JURISDICTION

Jurisdiction is founded upon 28 U.S.C. 1257 (3).

Statement of Questions

STATEMENT OF QUESTIONS PRESENTED FOR
REVIEW

If the Trial Judge properly assigned to a criminal prosecution accepts a plea bargain which is then given broad coverage by the media, do the 5th, 6th and 14th Amendments to the Constitution of the United States prevent him from subsequently repudiating the bargain because of ex parte and third party influence and directing that Defendant stand trial and be judged in the jurisdiction where her plea has been publicized?

CONSTITUTIONAL PROVISIONS, STATUTES AND ORDINANCES INVOLVED

This petition involves the 5th, 6th and 14th Amendments to the Constitution of the United States which declare:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

(5th Amendment)

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence."

(6th Amendment)

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

(14th Amendment, Section 1)

Statement of the Case

of which the Commonwealth was then aware, no requirement that she testify against anyone else and because she was guilty.

The Court, as the controlling rules required, then went through the ceremony of telling defendant she need not accept the plea. But defendant did not care what the Court said because she was merely pro forma following the rules which required him to say this and because she had already heard him give his word in chambers that the plea was accepted—period with no ifs, ands or buts².

The plea was given wide coverage in the media. Anyone who read, heard or saw knew that Petitioner had admitted the deeds and confessed her guilt.

Subsequently, Judge Strauss advised Attorney for your Petitioner that third persons had given him information which required the bargain he rejected.

The problem was reset for March 16, 1979 at which time the Court rejected the bargain and advised Petitioner she could withdraw her plea.

Petitioner requested an evidentiary hearing about outside influence. But the lower Court refused and summarily left the bench thus terminating the proceeding. What relevant testimony could be put on record is set forth on pages 13 and 14 of the hearing transcript.

² In order to make certain the bargain had the victims' consent, the Court interviewed two of them then present and had the Assistant Prosecutor personally contact the other four and report to him while the Pennsylvania Rule of Criminal Procedure colloquy was going on.

Statement of the Case

Mr. Brunwasser: I don't agree to a date. I'm asking that the plea bargain be enforced under Santabello which says plea bargain will be enforced, and so I ask your Honor not to set any trial date because this lady has been seriously prejudiced.

The Court: The plea bargain is rejected. There was no finality to the plea bargain. You know it. And there was no time limit set.

Mr. Brunwasser: I want to have a hearing. I ask to have a hearing with everyone sworn about what went on in chambers to determine if Your Honor accepted the plea bargain."

Petitioner protested to the Pennsylvania Supreme Court and asked the bargain be specifically enforced because she could no longer have a fair trial within the meaning of the 5th, 6th and 14th Amendments to the United States Constitution and because she had been hopelessly compromised and prejudiced.

She observed that change of venue would not solve her problem because she had no money to finance it, her chosen lawyer refused to leave his home town and the prejudicial publicity of the sensational case had probably permeated the entire state.

She also objected to the lower Court's failure to tell her specifically what facts had caused him to do what he had done, all in violation of the 5th and 14th Amendments and the ABA plea bargain standards, Section 1.8.

On May 15, 1979, the Supreme Court denied the petition (1a) and the prosecutor set the case down for a July 2, 1979 trial.

REASONS FOR ALLOWANCE OF THE WRIT

Petitioner respectfully suggests that she had an absolute right to rely on the promise of the prosecutor and the lower Court. She respectfully requests that the plea bargain be specifically enforced because she can no longer have a fair trial. Everyone in the Commonwealth must know what has happened and the possibility of acquittal, which she had before the plea bargain, has now been taken from her without chance of restoration to her previous posture.

She relies on *Santobello v. New York*, 1971, 404 U.S. 257, 261, 92 S.Ct. 495, 499 (case remanded to State Court to determine whether the defendant should be given specific performance of plea bargain or opportunity to withdraw plea).

Petitioner respectfully suggests that the lower Court was not required to accept the plea bargain in chambers. He could have rejected it. Then Petitioner could have gone to trial and taken her chances.

However, it is respectfully suggested that the Supreme Court of the United States should not permit the Court to compromise a defendant, accept the plea bargain, have it publicized in the jurisdiction where trial will take place and then, after discussing the situation with unknown third parties, who gave information not made available to Petitioner, change its mind. *Turner v. Louisiana*, 1965, 379 U.S. 466, 85 S.Ct. 546; *Sheppard*

v. Maxwell, 1966, 384 U.S. 333, 85 S.Ct. 1507; *Townsend v. Burke*, 1947, 334 U.S. 736, 740.

In sum, the Court accepted a bargain when it did not have to do so, permitted the Petitioner to plead guilty when he knew the media would carry this event, discussed the situation with unknown third parties who told him presently undisclosed facts and then rejected the bargain without giving his reason for doing so. See ABA Standards in Regard to Plea Bargaining, Section 1.8.

CONCLUSION

Petitioner respectfully suggests that what has occurred is a dangerous precedent and that it is of sufficient importance to the administration of justice and the population at large plus the bench and bar of the country that plenary jurisdiction should be taken and the case decided on the merits.

Respectfully submitted,

ALLEN N. BRUNWASSER,
Attorney for Petitioner

APPENDIX

THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

Sally Mrvos 801 City-County Building
Prothonotary Pittsburgh, Pa.
Irma T. Gardner 15219
Deputy Prothonotary

May 23, 1979

Allen N. Brunwasser, Esquire
903 B Grant Building
Pittsburgh, Pa. 15219

In Re: Commonwealth v. Dolores Snyder
No. 25 W.D. Misc Docket 1979

Dear Mr. Brunwasser:

The Court has entered the following Order on your
Petition Requesting Extraordinary Jurisdiction in the
above matter:

"May 15, 1979

Denied.

By the Court."

Very truly yours,
Irma T. Gardner
Deputy Prothonotary

ITG:em

cc: Robert L. Eberhardt, Esq.
Asst. District Attorney
Pittsburgh, Pa. 15219

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